TREATY COMMISSION ANNUAL REPORT 2007

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The British Columbia Treaty Commission was launched on April 15, 1993 under the terms of an agreement between the Government of Canada, the Government of British Columbia and the First Nations Summit, whose members represent the majority of First Nations in British Columbia. The terms of the agreement require the Treaty Commission to submit annually to the Parliament of Canada, the Legislative Assembly of British Columbia and the First Nations Summit a report on the progress of negotiations and an evaluation of the process. Our financial information has been prepared to coincide with the release of the Annual Report 2007 and is submitted as a separate document.

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Letter from Commissioners

The BC Treaty Commission is pleased to report that since our 2006 annual report Tsawwassen First Nation and Maa-nulth, with five member First Nations, have successfully ratified final agreements.

These First Nations are well on their way to implementing the first modern treaties negotiated under the BC treaty process. Their journeys are truly historic. In a moving address to the BC legislature on October 15, Chief Kim Baird of the Tsawwassen First Nation echoed the sentiments of all those involved in the making of the Tsawwassen treaty when she said, "true reconciliation is the product of this treaty. It proves to the world that reasonable people can sit down and settle historical wrongs."

The Tsawwassen and Maa-nulth treaties are achievements of significance for all British Columbians and demonstrate that agreements can be reached. In addition to Tsawwassen and Maa-nulth, there are clear indications from a number of other treaty tables that they are also close to reaching final agreement.

However, while there is success at some treaty tables, there remains considerable distance among the parties at most others. The successful ratifications in Tsawwassen and Maa-nulth are taking place against a backdrop of growing provincial, national and international unrest surrounding the rights of indigenous peoples.

For example, in BC, a significant number of First Nations involved in negotiations under the BC treaty process, supported by First Nations outside of the BC treaty process, have entered into a unity protocol and are asking for a common table to address issues that First Nation negotiators feel cannot be resolved at their individual tables.

In June, we witnessed a national day of protest organized by the Assembly of First Nations. The protest signaled growing frustration with the level of poverty in First Nations' communities across Canada and, in BC, drew attention to the lack of overall success in resolving the 'land question'. The Canadian government's decision not to sign the UN Declaration on the Rights of Indigenous Peoples simply compounded this frustration.

While treaties under the current BC treaty making process are clearly achievable for some First Nations, the question for how many remains unclear. Many First Nations are a long way from achieving their idea of 'true reconciliation'. This threatens the chances of achieving province-wide certainty with regard to the 'land question'. No one can be complacent. There remains much work to be done despite the progress.

Increasingly First Nations and governments are trying to find solutions to issues related to the 'land question' outside of the BC treaty process. All involved in the land question need to understand why this is occurring. Linkages need to be found as ultimately the goals are common whether inside or outside the treaty-making process.

Letter from Commissioners

As a way to begin the dialogue on creating the linkages, our 14th annual report focuses on the three First Nations that held treaty ratification votes this year; the first three under the BC treaty process. Lheidli T'enneh First Nation was the first to vote but unsuccessfully ratify a treaty. Their story is important and continuing. Tsawwassen First Nation was the first to ratify a treaty; the first urban treaty. Maa-nulth First Nations, comprising five separate communities, was the first large group to ratify a treaty through five separate membership votes. These three stories can help inform the process as we address the challenges of treaty making in the future.

No one knows more of the triumphs and challenges of the past year than the three outgoing commissioners. We owe a debt of thanks to a distinguished group of commissioners who left the Treaty Commission in 2007. Most notable was the sudden departure of Chief Commissioner Steven Point following his appointment as the first aboriginal Lieutenant-Governor of British Columbia. We would like to extend our congratulations to the Honourable Steven Point who will bring to this esteemed position the same dedication and commitment to the future of our province as he did while our chief commissioner. We also said goodbye to former premier and commissioner Mike Harcourt and to our longest serving commissioner, Wilf Adam. Both of these men also served with dedication and commitment during their terms and we wish them well in their future endeavours.

Finally, as always, we owe much thanks to our hard-working staff for their contributions in this extraordinary year. They share with us, the privilege of having played a small but important role in the events of this past year and will no doubt meet the many challenges in the upcoming year.

Sincerely,

Jack Weisgerber, Jody Wilson, Robert Phillips

Overview

Breakthroughs in 2007 underline diverging views

The current First Nations political landscape was in plain sight October 15 as celebrants joined Tsawwassen Chief Kim Baird inside the provincial legislature while protesters marched outside.

The two vantage points highlight the divide that exists between those First Nations achieving treaties and those First Nations that see no future at the treaty negotiating table without changes.

Not surprisingly, each victory on the road to reconciliation gets much attention and promotion. So do the cries of the many frustrated, dissatisfied and disenfranchised First Nations.

Building momentum in the treaty process is largely an uphill climb. Setbacks are commonplace. Change is slow given the huge scope of the socio-political transformation that must take place. The enthusiasm of governments and others for the agreements that have been achieved with First Nations is understandable. Treaty ratifications celebrate the culmination of years of tough negotiations and the sustained political effort that is required to inform and engage First Nations and others.

But these treaty ratifications are taking place against a backdrop of growing provincial, national and international unrest. The sense of injustice many First Nations feel was in clear view during the national day of protest this summer and in the responses to Canada's decision not to sign the UN Declaration on the Rights of Indigenous Peoples.

At the national day of protest in June.

Nevertheless, we celebrated the news that the Tsawwassen First Nation treaty was overwhelmingly accepted by its members – 70 percent of them. For those who worked to make this treaty a reality July 25th was a good day. It is the first treaty ratified by a First Nation, and subsequently by the BC government, through the BC treaty process. It is the first urban treaty.

In her address to the provincial legislature, Tsawwassen Chief Kim Baird said, "The Tsawwassen treaty means many things to many people. In my view, one of the important things this treaty achieves is a new relationship between Tsawwassen, British Columbia and Canada. It achieves reconciliation."

Chief Kim Baird addresses the legislature.

Following closely on the heels of the Tsawwassen vote, Huu-ay-aht First Nation members – one of five Maa-nulth First Nations – voted overwhelmingly in favour of their treaty. Ninety percent said yes, a further step forward for treaty making, and proof that treaties are achievable.

The long wait for the vote of the final four Maa-nulth First Nations was rewarded, coming, as it did, three months after Huu-ay-aht members voted. And so we were able to add to our list of ratifications the First Nations of Ka:'yu:'k'th'/Che:k'tles7et'h', Toquaht, Uchucklesaht, and Ucluelet.

Overview

In the wake of the feelings the Tsawwassen and Maa-nulth treaties unleashed — both good and bad — we are reminded of the wise words in the 1991 BC Claims Task Force Report, the blueprint for treaty making in British Columbia.

"Although similar solutions may be found to apply to several sets of negotiations, the very different circumstances and histories of First Nations require careful consideration. Also, different regional resources and community aspirations of groups within the province, both aboriginal and non-aboriginal, will require specific tailoring of agreements. Taking these regional variations into account, it is unlikely that a single solution can be applied universally."

THE STATE OF TREATY NEGOTIATIONS

Earlier this year, we witnessed the defeat of the Lheidli T'enneh First Nation Final Agreement. This was the first treaty to make it on to a ballot. It turns out the First Nation was not quite ready; the deal was problematic and not well understood.

Currently, there are eight First Nations whose members could conceivably be casting votes over the next few years. In all, about 20 First Nations are making progress in negotiations. However, another 14 are struggling due to significant differences in positions and the remaining 24 are doing very little or nothing at all at the treaty table.

In several cases the provincial government hasn't had the inclination or the willingness to devote more resources for more treaty negotiations. And the First Nations haven't had the interest. The reasons for the lack of interest are numerous. Certainly treaty content is a significant factor. First Nations have also cited preoccupation with other issues and priorities.

Delays by the federal government at some tables had been raising serious concerns about their commitment to the BC treaty process. Chuck Strahl, in one of his first acts as the new federal minister of Indian Affairs, allayed some of those fears in signing the In-SHUCK-ch First Nation agreement in principle. He promised, too, to take action on a number of fronts to resolve aboriginal issues across the country. We look forward to seeing the results of those efforts.

A growing number of First Nations inside the treaty process joined by a large number of First Nations outside the treaty process are hoping their strength in numbers and highly public lobbying efforts will secure a new approach and a better deal with the governments of Canada and BC.

Those in the treaty process under the banner of their "unity protocol" have called for changes to the provisions that the governments of Canada and BC bring to the table. Specifically, they want changes to certainty provisions, constitutional status of treaty lands, governance, co-management throughout traditional territories, fiscal relations and taxation, and fisheries.

In a public statement we learned that, "First Nations Summit leaders caution that reaching further settlement agreements is in serious jeopardy unless the federal and provincial governments change their negotiating mandates and commit to act with integrity and in good faith in further negotiations, to ensure the recognition of aboriginal title and rights.

Consistent with the BC Claims Task Force Report, the Treaty Commission recognizes that government must acknowledge the unique elements of each agreement and should not attempt to use one agreement as a template for other negotiations.

Those First Nations outside the treaty process under the banner of the Union of BC Indian Chiefs (UBCIC) are also seeking recognition and reconciliation with the governments of Canada and BC, but perhaps not through a treaty given the very public disdain their leaders have shown for the BC treaty process.

In summary, these First Nations want a significant say in how the province is governed, a substantial share of provincial government revenues from resources, large land transfers with the land to remain under federal jurisdiction, freedom from taxes and significantly more in annual federal transfers for their programs and services, guaranteed within the treaty over the long term.

Frustrating for treaty commissioners is the lack of an engaged Principal's process to address trouble in the treaty process. The federal and provincial ministers and First Nations Summit leaders have not met formally to discuss treaty issues since September 2005. Interestingly enough, the federal and provincial ministers did meet with the First Nations Leadership Council, comprising the Summit, UBCIC and BC Assembly of First Nations, in August but not specifically to discuss the BC treaty process.

CONSIDER A NEW APPROACH

Commissioners support the concept of a common table being advanced by First Nation signatories to the unity protocol. The common table would allow the parties to negotiate and develop options for the treaty issues that many First Nations say are preventing progress in treaty negotiations. (These obstacles are noted above.) Creation of a common table is, in the final analysis, a decision to be made by others, not by the Treaty Commission.

In addition, and quite apart from the common table approach proposed through the unity protocol, the Treaty Commission would be prepared to convene and facilitate a high-level, common table for those First Nations with a shared interest in negotiating specific treaty chapters. To make sure these negotiations would be workable and productive all negotiators would need to be clearly empowered to negotiate on behalf of the parties they represent.

The Treaty Commission would also be prepared to compile and distribute those treaty chapters where there is widespread agreement among the parties. The idea is that Common Treaty Provisions would be maintained and updated by the Treaty Commission and provided to tables when requested.

We believe that while such an approach presents mandating and management challenges, the benefits are obvious: less duplication of effort; less debt; more progress; and a more focused approach on tougher issues earlier in the negotiations, to name just a few.

TERRITORIAL DISPUTES GO TO COURT

The goal in treaty negotiations is to achieve clear treaties everyone can count on. The Treaty Commission has for many years urged First Nations to deal with territorial disputes early on in their negotiations and offered to assist them in resolving overlaps. The Treaty Commission is now proposing to get more involved in resolving territorial disputes.

When First Nations are in the advanced stages of treaty making, the territorial issues and disputes become more clearly apparent through the negotiations over land and resources.

Recent BC Supreme Court decisions give First Nations, no matter what the status of their treaty negotiations, compelling reasons to resolve their territorial issues. The court rulings note that where there are competing claims to territory, a prima facie case for aboriginal title may not be established or may be weakened. On the other hand, the court rulings suggest agreements among First Nations strengthen claims to aboriginal title and rights and, ultimately, the ability to conclude treaties.

Overview

In one of the clearest examples, the Tseshaht First Nation sought an injunction in the BC Supreme Court in July 2007 to stop the Huu-ay-aht First Nation treaty ratification vote on the grounds the Maa-nulth First Nations Final Agreement encroached on their land claim. The court noted the balance of convenience rests with the First Nation ratifying a final agreement and the non-derogation language included in treaties is recognition that a final treaty does not limit the claim of another First Nation to land or resources agreed to in the treaty. The decision also gave weight to an overlap agreement among Tseshaht, Huu-ay-aht and Uchucklesaht.

The BC Supreme Court in *Hupacasath First Nation v. British Columbia* (Minister of Forests) and *Heiltsuk Tribal Council v. British Columbia* (Minister of Sustainable Resource Management) ruled that a prima facie case for aboriginal title may not be established or may be weakened where there are competing claims to territory.

Over the past year the Treaty Commission has been increasingly drawn into discussion of overlap issues involving not only First Nations, but also the Crown, as part of the Crown's obligation to consult and accommodate First Nations. The Crown's involvement in these discussions has added another layer of complexity to an already complicated situation.

The Treaty Commission has developed a shared territory resolution project as a first step in looking at alternatives to court action when talks between First Nations break down.

LITIGATION REMAINS A FACTOR

The judgment by Justice Vickers in *Tsilhqo'tin Nation v. British Columbia* in the BC Supreme Court states "the Court, confined by the issues raised in the pleadings and the jurisprudence on Aboriginal rights and title, is ill equipped to effect a reconciliation of competing interests. That must be reserved for a treaty negotiation process."

The case concerned the claim by the Xeni Gwet'in to aboriginal title to the remote Nemiah Valley northwest of Williams Lake.

Justice Vickers denied the Tshilqo'tin request for a declaration of aboriginal title, given the all-or-nothing nature of their pleadings, and dismissed the claim for damages. However, in his non-binding opinion he found the Tshilqo'tin did establish aboriginal title to a sizeable portion of the territory they claimed.

Justice Vickers encouraged the parties to resolve the dispute by negotiation and he hoped they would be guided by his opinion. There is no doubt the judgment will have an impact on treaty negotiations. The extent of that impact remains unclear and the full implications may not be known for some time. In the meantime, the Treaty Commission expects that First Nations will use Justice Vickers's opinion on aboriginal title lands as leverage in their treaty negotiations.

Central among the issues was whether "the nature of the use and occupation of the Nemiah Valley by the ancestors of the Xeni Gwet'in at the time the British Crown asserted sovereignty over it was sufficiently regular and exclusive to meet the legal standard for aboriginal title at common law for all or part of the territory claimed by the Xeni Gwet'in.

In the background is the decision of the Supreme Court of Canada *R. v. Marshall and R. v. Bernard [2005]*, a case in which a majority of judges held that seasonal use of land by an aboriginal group for hunting, fishing or other similar activities was not a sufficient basis for a claim to aboriginal title at common law.

As a result of recent court decisions, the seriousness of the Crown's obligation to consult and, perhaps accommodate First Nations, is becoming increasingly clear. The most recent court case attracting attention was the action to stop the sale in Vancouver of two office towers. Musqueam Nation was successful in stopping the sale of the Sinclair Centre and 401 Burrard by the federal government. In a similar action, Musqueam Nation had earlier won an economic accommodation from the development of the River Rock Casino on Crown land. Musqueam Nation has also been successful in stopping the transfer of the Garden City lands in Richmond and the University Golf Course in Vancouver.

DEVELOPMENTS ON OTHER FRONTS

The Leadership Council, an alliance of the three First Nation organizations born of the "new relationship" initiative with the BC government, is a united voice on aboriginal issues.

Their first task was establishing *The New Relationship Trust Act* through which the BC government provided a $100 million trust fund now administered by a board of First Nations people. The trust fund is intended to assist First Nations in five priority areas including capacity, education, culture and language, youth and elders, and economic development. Over the past year, there have been tripartite announcements on health, education, language, housing and economic development.

However, we are aware that impatience is growing as the money is yet to flow to First Nation communities. Progress on the ground has been limited to date and our concern is that there is no obvious link to treaty making. While we acknowledge the fact that such developments may relieve the pressure on treaty negotiators to solve all First Nation problems, in the near term, there is always the chance that these parallel initiatives will divert energy from treaty negotiations. The challenge is to find linkages that will make these initiatives mutually supportive.

IN CONCLUSION

Treaties ratified to date have yet to be embraced by large numbers of First Nations. Following the lead of Tsawwassen First Nation and Maa-nulth First Nations, some First Nations are moving forward with their own agreements. Still others may now be taking a closer look at the agreements that have been ratified.

There is much work to be done in explaining the contents of these treaties and their significance. The content of treaties clearly matter, but we have learned that a lack of understanding of treaty benefits and future options can also be major factors in a treaty defeat.

Frustrated and disillusioned First Nations must have a meaningful opportunity to be fully engaged, on all issues they view as important, with the other two governments before we declare any of them uninterested in pursuing treaties. These First Nations must not be ignored or dismissed. The ideal situation would be for their engagement to happen at the negotiating table or at a table yet to be convened specifically to consider their concerns.

TSAWWASSEN

LAND FACING THE SEA

Treaty achieves 'reconciliation'

Tsawwassen First Nation has become the first to ratify a treaty under the BC treaty process.

The vote July 25th was the successful culmination of a long, difficult negotiation process for the small First Nation. It marks the beginning of the equally tough job of leveraging the benefits of the treaty to provide a better life for the Tsawwassen First Nation people. As importantly, it signals the Tsawwassen First Nation is ready to take back their rightful place in the larger community, to set itself on an equal footing to its neighbours through their treaty.

The Tsawwassen longhouse was bulldozed because it was in the way.

Tsawwassen First Nation is no stranger to inequality. Their reserve on the shores of Georgia Strait was conceived of the *Indian Act* in 1878 in the vicinity of their traditional summer camp. The reserve comprises just 272.6 hectares of a much larger traditional territory.

The BC government began building the Tsawwassen ferry terminal in 1959 on a man-made island to the south of the Tsawwassen reserve. Builders chose to connect the island terminal to the mainland with a causeway that cut directly through the Tsawwassen reserve. The Tsawwassen longhouse was bulldozed because it was in the way.

Then in the 1960s the Robert's Bank coal port, now known as Deltaport, was built to the north of the reserve, bringing train and truck traffic. A container port was added to the facility in 1997.

These two industrial projects dramatically changed the lives of the Tsawwassen First Nation people. The change in tidal flow patterns trapped seawater in what was once a rich tidal marshland, creating a dead zone that destroyed the beaches fronting the reserve. No longer could they use their beaches as they traditionally had, to gather the seafood that was a mainstay of their diet, culture and economy.

Tsawwassen Chief Kim Baird leads the procession to the Provincial legislature for introduction of the Tsawwassen Final Agreement.

In contrast, the community of Delta was experiencing newfound importance and suburban growth as a result of these and other large-scale infrastructure projects connecting the community to the growing Vancouver metropolitan area.

From that first ferry project the pattern was set for the next 50 years: land-use designations such as the Agricultural Land Reserve, official community plans and livable region strategies were developed around the Tsawwassen reserve without any consideration given to the Tsawwassen First Nation, and without thought to their aboriginal rights in the region.

We have been the victims of industrialization and urban development on our front steps to the benefit of everyone but us.

—Chief Kim Baird

To add insult to injury, the rules and regulations under the *Indian Act* prevented the Tsawwassen First Nation from setting policy or developing projects on their reserve to mitigate the negative consequences of the development happening around them. Instead, the federal government was the final decision-maker in anything to do with Tsawwassen First Nation.

The results have been devastating. Today, family annual incomes average $20,000, unemployment sits at 40 percent, and high school graduation rates are 47 percent. There is a lack of housing on the reserve and little infrastructure or development to support the people that live there. Consequently, many Tsawwassen First Nation members have had to move away from their homes.

In sharp contrast is the community of Delta, where the average annual family income is approaching $70,000, high school graduation rates are 77 percent, and unemployment sits at six percent.

"We have been the victims of industrialization and urban development on our front steps to the benefit of everyone but us," says Tsawwassen Chief Kim Baird. "We tried everything that we could think of to prevent that from happening, but came to the conclusion we would continue to be marginalized unless we changed our approach."

For Tsawwassen First Nation, the change in approach meant entering the BC treaty process to negotiate a treaty. In 1993, they began negotiations with the federal and provincial governments to reconcile Tsawwassen aboriginal rights and title with other interests to the land in the greater Vancouver area.

The negotiation process has not been easy

Baird readily admits the negotiations were at times volatile, with the parties uncertain they could reach agreement right up to the day the agreement was initialed by the chief negotiators. Some days the frustration made it extremely difficult not to walk away from the table. This was especially true when the federal and provincial governments showed no flexibility on issues of principle such as the certainty model, the constitutional status of lands and tax exemptions.

Tsawwassen's insistence on interest-based negotiations, a willingness to pick their battles, and a ruthless consideration of Tsawwassen priorities helped to keep negotiations on track.

"Early in the process we had to decide what our objective was: to right all past wrongs through compensation or was it to have a new start?" says Chief Baird. "And I think the pragmatic reality was the treaty process will only provide for tools for the future. But talk about hard."

I became convinced that self-government really is the key tool that we need.

—Chief Kim Baird

After several years of negotiations, Tsawwassen made the painful decision to put aside some issues of principle. Their decision was guided by a single objective, to improve the quality of life for the Tsawwassen First Nation people. The treaty team had to ask some very difficult questions. Would putting aside these issues negatively impact TFN members more than members would benefit from settling a treaty? Was it likely government negotiation positions would change in the near future? Was a treaty worthwhile even with some less than ideal compromises?

Upon serious reflection, Chief Baird and the Tsawwassen negotiating team got the one thing they felt was the most important to their future. And that thing was self-government.

That decision was helped by Premier Gordon Campbell who reversed the BC government's position that all self-government provisions be outside of the treaty. Consequently, all First Nations in the BC treaty process may now negotiate constitutionally protected self-government as part of their treaty. The decision was a significant turning point for negotiations, because the Tsawwassen First Nation had committed to settling if it happened.

"Based on my experience on council since 1993 — this is Baird's fifth term as chief — I can't tell you how many times our plans have been interfered with by other levels of government, all levels of government," says Baird. "I became convinced that self-government really is the key tool that we need. The land, the money and the resources are of course important. But it's the governance we need to become self-sustaining."

The Tsawwassen First Nation Final Agreement expresses the clear understanding that Tsawwassen members have of their current situation and the desire they have to move forward in building an economically and culturally healthy community.

And regardless of how people feel about it, it's a fact that treaties have to be settled.

– Chief Kim Baird

They understand that life under the treaty will not be easy. Negotiations at the Tsawwassen table have been contentious from the beginning, and the terms of the final agreement have not pleased everyone.

For example, Tsawwassen's traditional territory is located in the province's most densely populated and urbanized area. There is little available Crown land in the region, and the majority of land that is available is farmland held in the Agricultural Land Reserve. To reach agreement, the provincial government made the decision to put aside one of its own issues of principle – its commitment to holding land in the Agricultural Land Reserve – and agreed to remove 207 hectares of land.

That decision outraged some farmers, politicians, activists and citizens. Delta Mayor Lois Jackson went so far as to launch legal action in a bid to stop the BC government from signing the treaty. The lawsuit was filed on the grounds that Delta residents had been illegally denied their right to have a direct voice on proposed changes to municipal boundaries, including the loss of farmland. However, the city's request to the court was denied.

Likewise, some Tsawwassen First Nation members have objected to the treaty because they believe it relinquishes native status, and the sovereign rights of First Nations people in Canada. The conflict has meant, at times, strained relationships on and off reserve. But Chief Baird takes much of this in stride.

"Our First Nation is used to being in the middle of controversy, whether it's AFS (Aboriginal Fisheries Strategy) pilot sales and angry fishermen in Ladner or the fact that we developed a condominium (development) that people weren't too happy about," she says. "It's part of asserting yourself. And regardless of how people feel about it, it's a fact that treaties have to be settled."

And assert itself the Tsawwassen First Nation will do. Ultimately, the Tsawwassen First Nation treaty is about reconciliation through the accommodation of differences.

To that end, Chief Baird is actively pursuing a new relationship with all levels of government throughout the entire Metro Vancouver region.

She speaks at a number of chambers of commerce events, business associations and service clubs in the area and has worked hard to build those networks within Delta. Under treaty, the Tsawwassen First Nation will join the Greater Vancouver Regional District. Throughout it all, Chief Baird has found that when the Tsawwassen are able to explain what their objectives are and that they are trying to achieve a better quality of life for the Tsawwassen community, most people understand that. And that bodes well for the future.

In the end, "We are just trying to get a settlement that will provide us with the ability to move forward," says Baird.

On reserve, that means building on the momentum and harnessing the energy from the successful ratification vote. It means turning the community's attention away from whether the agreement is good enough or not to accepting the fact that the Tsawwassen need to rebuild their community.

"Our treaty is the right fit for our nation," says Baird. "More land, cash and resources provide us the opportunity to create a healthy and viable community, free from the constraints of the *Indian Act*. We now have the tools to operate as a self-governing nation, for the first time in 150 years."

The settlement, agreed to by 70 percent of registered Tsawwassen First Nation voters, provides: $13.9 million paid over 10 years; $2 million for relinquishing mineral rights under English Bluff; $15.8 million for startup and transition costs and ongoing costs for parks, migratory birds and treaty management; as well as $2.8 million annually for ongoing programs and services. The settlement comprises 724 hectares of land now, of which 662 hectares will be Tsawwassen Lands and 62 hectares will remain under the jurisdiction of Delta, and an opportunity to add settlement land later. Regarding resources, there is provision for salmon, crabs and intertidal bivalves and funding to establish a Forest Resource Fund and Wildlife Fund.

We now have the tools to operate as a self-governing nation, for the first time in 150 years.

– Chief Kim Baird

The focus is now turning to developing settlement legislation with the provincial and federal governments, institutions and governance, land-use plans, economic and development planning.

"There is still cynicism left over from the *Indian Act*, and people are cynical about what we are able to do here," says Baird. "I don't think everyone fully appreciates the potential we have right now.

"We are in a big whirlwind. But it's exciting because we are building now instead of negotiating. The challenge is ensuring community engagement to ensure that we create something that is community driven."

LHEIDLI T'ENNEH

THE PEOPLE FROM THE CONFLUENCE OF TWO RIVERS

A treaty rejected

It wasn't just one thing that sunk the Lheidli T'enneh First Nation Final Agreement in March 2007, it was lot of things.

First Nation leaders and negotiators for the other two governments were trying to pick up the pieces following a raucous membership meeting in Prince George in late September 2007. There was no denying the 137 members present at that membership meeting, through their words and actions, showed family divisions run deep, trust is in short supply and the treaty is problematic.

Three points were made clear: faith in their leaders was lacking; Lheidli T'enneh members did not see themselves as ready for self government and treaty provisions fall short of what some members expect in a settlement.

Based on members' comments made that September day, and in an earlier Treaty Commission-sponsored member survey and leader interviews, a number of other things were evident: it is difficult to move from wardship, under the protection but limited comfort of the *Indian Act*, to self-governing, self-sustaining First Nation. Indeed, the prospect is frightening for many Lheidli T'enneh members who fear they will lose the benefits they currently receive from the federal government and will be beggars within their own First Nation.

Difficult to address, too, is the belief among members that aboriginal title means the Lheidli T'enneh are the owners of the land and resources within their traditional territory and the corollary that hundreds of millions, perhaps billions of dollars are due as compensation for the resources that have been removed and the land that will be lost through treaty making.

There is disagreement, too, among members as to whether urban lands in Prince George are more desirable than wild lands for the future prosperity of Lheidli T'enneh members. While urban lands chosen may provide a bigger

Procession of Lheidli T'enneh members during ceremonies in Prince George to mark the initialing of the Lheidli T'enneh Final Agreement.

economic benefit, the city properties do not provide for traditional and spiritual practices that are better suited to wild lands. Nor do they preserve wild lands for future generations of the First Nation.

Oddly enough, members voted in favour of the Constitution — 121-112 — that would continue the *Indian Act* band practice of electing governing members at large, thereby perpetuating family divisions. A proposal for families to appoint their representatives to government was dropped. Both proposals set six as the desired number of elected First Nation representatives, whereas the current *Indian Act* band council has four. A seventh government member would be elected by non-members who pay taxes to the First Nation.

The treaty ratification vote result caught many by surprise.

The treaty ratification vote result caught many by surprise. There was an expectation the treaty would pass, in part because the Community Treaty Council comprising family representatives had followed its progress weekly for many years. That process was being questioned soon after the vote results were made public. Community Treaty Council (CTC) members were expected to provide the information from each weekly meeting to their family members and bring any questions or concerns to the next meeting. Chief and band councillors were not welcome to participate in treaty meetings unless they did so as family representatives like everyone else. There was also a Youth Treaty Council comprising two youth each for the north reserve, south reserve and Prince George.

In suggesting to the First Nation an examination of the vote, then Chief Commissioner Steven Point said the Treaty Commission wanted to know if more time and information would have made a difference in the result or if content was the culprit, as some were suggesting.

The chief commissioner emphasized the vote analysis was for the benefit of the Lheidli T'enneh people, not to answer those who say the treaty process is in trouble.

Among the findings was evidence of a flawed process. Following a ceremonial initialing of the treaty in Prince George in late October 2006, negotiators pushed for an early vote building on the momentum of the event. Suggested dates in January and February 2007 drew alarm. It was too soon. Most members had not seen the actual treaty or had had it explained to them. March dates were finally chosen and the rush was on to get information to members.

Given the tight time frame before the vote, the decision was made to send all information to members at one time, including the 221-page treaty, the 324 pages of appendices and the 108-page plain language guide to the treaty. Information meetings were held in eight communities over a 17-week period beginning in November, but attendance was disappointingly low. Home visits were subsequently offered but prompted only a few appointments.

Perhaps the most significant strategic error, given the First Nation's family history, was the decision to hold the band council election just eight days before voting was to begin on the treaty. Band elections have tended to divide the community and raise issues more related to life under the *Indian Act* than life after treaty.

There was a belief, too, among members that a no vote would bring with it a better offer from the governments of Canada and BC. The history of Lheidli T'enneh negotiations would tend to substantiate this belief.

The offer in August 2000 of 2,903 hectares of treaty settlement land and $7.5 million was rejected and was followed three years later by an offer of 4,000 hectares of land and $12.8 million in cash. The final settlement offer was for 4,330 hectares of land, $27 million in one-time funding, $400,000 per year in revenue sharing for 50 years, 107,000 cubic metres in long-term wood supply, 9,000-10,000 sockeye for food, social and ceremonial purposes annually (depending on run size) and 6,000 sockeye available for sale in years when there is a commercial fishery. The total value of the agreement was estimated to be $70 million for the 300-plus Lheidli T'enneh members whose Indian reserve lands currently amount to 685 hectares.

Upon releasing its findings from the examination of the vote, the Treaty Commission was asked if it believed a second vote was warranted. It is for the members to decide if a second vote is warranted based on the information the Treaty Commission has provided and their own thoughts on the treaty. The Treaty Commission can say that when members voted, aspects of the treaty were not well explained; other non-treaty issues influenced the outcome of the vote and content was a major concern.

The First Nation has shifted its focus to building the capability and readiness to implement a treaty should the members one day vote in favour of the agreement. The plan addressing the readiness for treaty implementation is being developed for the members to consider sometime in the future.

Based on this work, the governments of Canada and BC may be prepared to honour their agreement beyond their current commitment to March 31, 2008.

MAA-NULTH

VILLAGES ALONG THE COAST

Maa-nulth success rooted in storied past

Today, the Maa-nulth stand together proudly and take their rightful place in the society, culture and economic fabric of the province of British Columbia and Canada.

With those words, Huu-ay-aht First Nation member Tom Happynook, signalled the Maa-nulth people had made their choice about their future. Of those who voted, 80 percent were in favour of the Maa-nulth Final Agreement, and of the total eligible voters, 68 percent were in favour. Perhaps as gratifying for leaders and community volunteers was the 86 percent turnout of members. This was a convincing endorsement of their treaty.

The vote count for three of the First Nations, Toquaht, Uchucklesaht and Ucluelet, took place in Port Alberni on Sunday, October 21, in an atmosphere of high expectation. The scene was the same for the Ka:'yu:'k't'h'/Che:k'tles7et'h' in their traditional territory near the northwest tip of Vancouver Island. Huu-ay-aht First Nation had three months earlier overwhelmingly ratified the agreement.

I think this was a result for our forefathers who worked so hard to get a treaty for our people.

– Chief Councillor Robert Dennis

As the votes were counted and the results announced, it became clear that the long years of negotiation, the sustained effort to inform the communities and answer member's questions, and the initiatives to find and enrol voters from far afield had paid off.

The way in which the Maa-nulth First Nations tackled the complexities and challenges of ratification is yet another indication of the single-mindedness with which they have pursued a treaty since entering the BC treaty process in 1993.

Indeed, as Mike de Jong, provincial minister of aboriginal relations and reconciliation acknowledged, their quest for a treaty began much earlier than that and represented "in many cases a lifetime of work."

Chief Councillor Robert Dennis said, "It was a very long fight. I think this was a result for our forefathers who worked so hard to get a treaty for our people."

The Maa-nulth First Nations procession to the BC legislature.
Diana Nethercott photo

The Maa-nulth First Nations entered the treaty process as part of the Nuu-chah-nulth treaty negotiations, a collective of 12 First Nations on the west coast of Vancouver Island. In the 1970s and 1980s, the Nuu-chah-nulth Tribal Council under the leadership of the late George Watts had emerged as a significant force in aboriginal politics in BC.

I would rather see Nuu-chah-nulth people gainfully employed.

— George Watts

While the Nuu-chah-nulth were pursuing rights-based litigation in the courts in the Meares Island case, they were also submitting a land claim under the then federal comprehensive claims policy in 1980. Together, these First Nations were among the pioneers in securing greater self government under the *Indian Act*. By securing block, or lump sum funding, they were better able to allocate program funds according to their own priorities.

The Nuu-chah-nulth First Nations were among the earliest to develop joint ventures with forestry companies, and many of their members worked as loggers and commercial fishermen. They forged ties with unions, environmental groups and mainstream political parties. As well, they were active in First Nation political organizations. Community development and education were key priorities embraced by Watts, among the first aboriginal students to enrol at UBC.

This multi-pronged strategy had its echoes in the Maa-nulth approach to treaty negotiations, an approach they captured in the motto "Honouring the Past, Embracing the Future."

Running through the Maa-nulth negotiations were four key themes.

First, the treaty must give effect to the First Nations' inherent right to self-government within Canada in a modern context and put an end to the *Indian Act* band system. The treaty must clearly define their jurisdiction and the relationship of their laws to those of the provincial and federal governments.

And fiscal financing and tax issues had to be addressed. This included agreeing to the phasing out of the *Indian Act* exemptions on income tax and sales tax. In return, the Maa-nulth First Nations secure the ability to levy taxes on their members and the residents on their lands.

"I would rather see Nuu-chah-nulth people gainfully employed and paying taxes to support our own governments in enhancing services like health care and education, than to see our people continuing to live in poverty and dependent on the welfare system," George Watts had said.

Secondly, the treaty must recognize and protect key rights and resources throughout the traditional territories of the member First Nations, including in the ocean.

Thirdly, the treaty must help to empower communities, both economically and socially.

And finally, the treaty must serve as the basis for an ongoing, living relationship with other governments, not be a once-and-for-all-time agreement. While the Maa-nulth First Nations understood that all parties were seeking certainty and predictability, they also insisted that they should be eligible to benefit from economic and other opportunities available to other First Nations under the province's ongoing New Relationship initiatives. In the absence of access to such opportunities, their treaty would put them at a disadvantage.

We will soon be one of the biggest landowners in the lucrative Pacific Rim region.

—Chief Councillor Violet Mundy

Important, too, was a "review" section, which committed the parties to periodically reviewing the "practicability" of various aspects of the treaty. While it does not commit the parties to amending the treaty after a review, it does provide them with an additional opportunity to do so.

Timing was an important consideration for the Maa-nulth. Like the Nisga'a before them, the Maa-nulth wanted to get on with the business of exercising their rights and building their future through a treaty. They recognised in the treaty process a rare opportunity to address community aspirations now and to protect and secure resources in an area where exploitation of those resources was likely to increase, as was their value.

"We will soon be one of the biggest landowners in the lucrative Pacific Rim region," said Violet Mundy, Ucluelet First Nation chief councillor, during the treaty initialling ceremony in Victoria in December.

If, on the other hand, they waited, not only would there be foregone opportunities, but the other governments might have less to offer. And in assessing the value of the agreement, the Maa-nulth were keenly aware that the cash component of the treaty could be used to leverage significantly more investment dollars.

The Maa-nulth knew that serious engagement in negotiations would involve trade-offs and compromises. They did so, however, with a clear vision of what they wanted to achieve in treaty—that is, the basis on which they could gauge its acceptability.

But the Maa-nulth knew that in the last analysis they had other options, for example, in the courts. They understood that the governments facing them across the table had their own reasons—legal, political, economic, moral—for wanting to reach an agreement. Tough-minded and seasoned negotiators, they had a clear sense of where concessions were acceptable or

even advantageous, where the other parties would have to put more on the table, and where the other parties had reached the end of their policy mandates.

As the negotiations gained momentum, as more and more stumbling blocks were removed and as confidence grew that an agreement was achievable, so the parties grew more creative in putting forward solutions—both inside and outside the treaty agreement—to narrow the outstanding gaps. The Maa-nulth also understood that the negotiating teams at the table could achieve only so much: that building relationships with provincial and federal political leaders was essential to clinching an agreement. In the words of one negotiator, "The Maa-nulth put in a lot of face time with ministers as they moved towards closure."

Although the Maa-nulth First Nations had a shared culture and history, shared roots in the Nuu-chah-nulth Tribal Council, and a shared commitment to treaty, there are significant differences among them. There are differences in size and in location as some are remote and some are not. There are differences in economic opportunity. And, as evidenced by the voting results, there are differences in levels of support for treaty-making. Keeping the five First Nations in step posed its own practical and political challenges. Strong and committed political leaders, both at the collective level and within the individual First Nations, proved crucial.

Strong leaders were important in other respects as well. They set the strategic goals for the negotiations. They kept the negotiations on track in the face of changes of federal and provincial governments and changes in those government's negotiating positions. They gave direction to the technical experts they had been able to attract to their negotiating team and to the communications coordinators in the communities. They steered the Maa-nulth table through the sometimes painful process of separating from the Nuu-chah-nulth treaty table in 2003. They took a lead in attempting to resolve overlaps with their neighbours and in dealing with the legal challenge arising from overlaps when it came. They played a key role in the communication and ratification processes.

The leaders also ensured that additional representatives from the individual First Nations took part in the negotiations so as to widen the circle of input, understanding and ownership. The result was that it was not just the chiefs and councillors who could explain the contents of and trade-offs within the emerging agreement to the members at large. And by widening the circle of negotiators, Maa-nulth was better able to recover from the untimely death of their lead negotiator, George Watts, in 2005. Finally, this pool of expertise and experience should prove helpful in the daunting task of implementing the agreement in the months and years ahead.

It is, of course, not just the First Nations negotiators who must bring home the agreement. The negotiators for the Crown, who spend as much time negotiating within their own systems as with the First Nations, require great skill and persistence. Their political leaders have to make sometimes hard choices in order to secure agreements. Yet no one denies that it is the First Nations who have the toughest row to hoe. The Maa-nulth, like the Nisga'a and Tsawwassen, have shown that where First Nations make and stick to their choice, modern treaties can be achieved in British Columbia, despite the hardships and the criticisms.

The agreement provides constitutionally-protected self government, a lump sum payment of $73.1 million over 10 years, as well as $1.2 million annually in resource royalty payments for 25 years and $9.5 million annually for program funding. The agreement provides 22,375 hectares of land including sub surface resources, in addition to the existing reserves of 2,084 hectares and allows the First Nations to add to their settlement lands through purchases. Two further key sites off treaty settlement land will become provincial protected areas. There is one-time funding of $47.3 million to fund transition and implementation in such areas as fisheries, parks, public works, governance and land and resource management to be paid over eight years. A further $11.1 million has been provided outside the treaty for capital projects, to purchase commercial fishing licences and to prepare for treaty implementation. In addition to the treaty right to harvest wildlife and migratory birds for food, social and ceremonial purposes, a separate harvest agreement outside the treaty provides commercial fishing access for salmon, halibut, herring, rockfish, sablefish, crab and prawns, as well as allocations for food, social and ceremonial purposes.

The Maa-nulth Final Agreement is expected to come into effect in 2009. It is being ratified in the provincial legislature and then must be ratified in the federal parliament.

Treaty ratification

Treaty ratification by First Nations is no easy matter. Historically marginalised and disadvantaged communities are being asked to embrace and actively endorse change and to accept certain compromises, to put aside their often justifiable distrust of the other parties at the table, and to accept a system of self government different from the *Indian Act* regime they may not like but have grown accustomed to.

The changes brought about by the treaty can, in the words of Maa-nulth lead negotiator Gary Yabsley, "be significant reason for optimism." For those on the ground, however, they can also be a troubling, even scary proposition.

Treaty ratification is doubly challenging given the high threshold of votes required: 50 percent plus one of the eligible voters, not just participating voters, must approve the agreement. In general elections, votes that are not cast do not count. By contrast, where 50 percent plus one of the electorate must vote in favour, votes not cast combined with a "no" vote can kill the deal, even where most of those who vote support it. In these circumstances, the challenge of tracking down and enrolling voters and of getting out the vote becomes even more significant. And there is an even greater need to communicate with often far-flung members.

The changes brought about by the treaty can... be significant reason for optimism.

— Negotiator
Gary Yabsley

In addition to the treaty vote, voters are asked to cast ballots on the surrender of the assets held by the current bands, the transfer of those assets to the new governing bodies and on the constitutions under which those governing bodies will operate. In these cases there are different thresholds. For band assets, at least 50 percent of voters must participate, and a majority of the participants approve the surrender and transfer. Constitutions must be approved by a simple majority of those who vote. In each case, the eligible Maa-nulth members voted in favour of the proposals placed before them.

There are 58 First Nations participating in the BC treaty process. Because some First Nations negotiate at a common table, there are 48 sets of negotiations. There are 8 First Nations in Stage 5 and 40 First Nations in Stage 4.

8 FIRST NATIONS IN STAGE 5

In-SHUCK-ch Nation
Lheidli T'enneh Band
Maa-nulth First Nations*
Sechelt Indian Band
Sliammon Indian Band
Tsawwassen First Nation*
Yekooche Nation
Yale First Nation

*Modified Final Agreements

40 FIRST NATIONS IN STAGE 4

Carcross / Tagish First Nation
Cariboo Tribal Council
Carrier Sekani Tribal Council
Champagne and Aishihik First Nations
Da'naxda'xw Awaetlatla Nation
Ditidaht First Nation
Esketemc First Nation
Gitanyow Hereditary Chiefs
Gitxsan Hereditary Chiefs
Gwa'Sala-'Nakwaxda'xw Nation
Haisla Nation
Heiltsuk Nation
Homalco Indian Band
Hul'qumi'num Treaty Group
Hupacasath First Nation
Kaska Dena Council
Katzie Indian Band
Klahoose Indian Band
Ktunaxa/Kinbasket Treaty Council
Kwakiutl Nation (in suspension)
Laich-Kwil-Tach Council of Chiefs
Lake Babine Nation
Musqueam Nation
'Namgis Nation
Nazko Indian Band
Nuu-chah-nulth Tribal Council
Oweekeno Nation
Pacheedaht Band
Quatsino First Nation
Snuneymuxw First Nation
Sto:Lo Nation
Taku River Tlingit First Nation
Te'Mexw Treaty Association
Teslin Tlingit Council
Tlatlasikwala Nation
Tsay Keh Dene Band
Tsimshian First Nations
Tsleil-Waututh Nation
Westbank First Nation
Wet'suwet'en Nation

4 FIRST NATIONS IN STAGE 3

Cheslatta Carrier Nation
K'omoks First Nation
Squamish Nation
Tlowitsis Nation

6 FIRST NATIONS IN STAGE 2

Acho Dene Koe First Nation
Allied Tribes of Lax kw'alaams
Council of the Haida Nation
Liard First Nation
McLeod Lake Indian Band
Ross River Dena Council

There are 58 First Nations participating in the BC treaty process. Because some First Nations negotiate at a common table, there are 48 sets of negotiations. There are 8 First Nations in Stage 5 and 40 First Nations in Stage 4.

In-SHUCK-ch Nation
Lheidli T'enneh Band
Maa-nulth First Nations*
Sechelt Indian Band
Sliammon Indian Band
Tsawwassen First Nation*
Yekooche Nation
Yale First Nation

*Ratified Final Agreements

Carcross / Tagish First Nation
Cariboo Tribal Council
Carrier Sekani Tribal Council
Champagne and Aishihik First Nations
Da'naxda'xw Awaetlatla Nation
Ditidaht First Nation
Esketemc First Nation
Gitanyow Hereditary Chiefs
Gitxsan Hereditary Chiefs
Gwa'Sala-'Nakwaxda'xw Nation
Haisla Nation
Heiltsuk Nation
Homalco Indian Band
Hul'qumi'num Treaty Group
Hupacasath First Nation
Kaska Dena Council
Katzie Indian Band
Klahoose Indian Band
Ktunaxa/Kinbasket Treaty Council
Kwakiutl Nation (in suspension)
Laich-Kwil-Tach Council of Chiefs
Lake Babine Nation
Musqueam Nation
'Namgis Nation
Nazko Indian Band
Nuu-chah-nulth Tribal Council
Oweekeno Nation
Pacheedaht Band
Quatsino First Nation
Snuneymuxw First Nation
Sto:Lo Nation
Taku River Tlingit First Nation
Te'Mexw Treaty Association
Teslin Tlingit Council
Tlatlasikwala Nation
Tsay Keh Dene Band
Tsimshian First Nations
Tsleil-Waututh Nation
Westbank First Nation
Wet'suwet'en Nation

Cheslatta Carrier Nation
K'omoks First Nation
Squamish Nation
Tlowitsis Nation

Acho Dene Koe First Nation
Allied Tribes of Lax kw'alaams
Council of the Haida Nation
Liard First Nation
McLeod Lake Indian Band
Ross River Dena Council

Progress Reports

First Nations in Stage 5

IN-SHUCK-CH NATION

The In-SHUCK-ch table obtained final approval for their agreement in principle in August and officially moved into Stage 5. The parties had been engaged in intensive final agreement negotiations for several months, and are making progress in completing the treaty.

The In-SHUCK-ch Nation traditionally occupied and used the land south of the Lillooet area and has approximately 840 members.

LHEIDLI T'ENNEH BAND

Please see the full Lheidli T'enneh report on page 14.

The Lheidli T'enneh traditionally used and occupied the land and water around Prince George, including the Nechacko and Fraser River area to the Alberta border. Today, the First Nation has approximately 300 members and 685 hectares of reserve land just outside of Prince George.

MAA-NULTH FIRST NATIONS

Please see the full Maa-nulth report on page 18.

The Maa-nulth First Nations are Ucluelet, Huu-ay-aht, Toquaht, Uchucklesaht and Ka:'yu:'k't'h'/Che:k'tles7et'h', with a total population of approximately 2,000. They were until 2003 part of the Nuu-chah-nulth treaty table. The traditional territories of the Maa-nulth First Nations are concentrated in the Barkley Sound area and towards the northwest end of Vancouver Island.

SECHELT INDIAN BAND

There have been four tripartite meetings to explore whether there has been sufficient movement in each party's position to resume treaty negotiations. One more meeting is scheduled in November, at which time there will be a final decision as to whether existing government mandates can accommodate Sechelt's interest at the negotiating table.

Sechelt has been self-governing since 1986 when it signed the first self-government agreement in Canada, the Sechelt Indian Band Self-Government Agreement. Sechelt, a First Nation with approximately 1,050 members, traditionally occupied and used the land and water around the Sechelt Peninsula.

SLIAMMON FIRST NATION

There has been a high level of tripartite activity at this table throughout most of 2007, with intensive negotiations expected to continue through 2008 until a final agreement is achieved. The focus of the table at this stage is to complete the review of final agreement chapters.

In anticipation of achieving a final agreement, Sliammon has been pursuing a variety of pre-treaty initiatives including an interest verification project with the Lund Regional District and the completion of a comprehensive community planning project with the City of Powell River. Sliammon has also devoted considerable time and effort to intensive consultations with its members as negotiations progress towards a final agreement.

Sliammon First Nation has a population of approximately 950 and traditionally occupied and used lands and waters in the vicinity of Powell River and Powell Lake and parts of the Gulf Island, the Courtenay area and Desolation Sound.

TSAWWASSEN

Please see the full Tsawwassen report on page 8.

Tsawwassen, comprising approximately 350 members, traditionally occupied and used the land and water around Pitt Lake and the Fraser River delta, Point Roberts, Boundary Bay, Roberts Bank, many adjacent smaller sloughs and drainage streams in the lower Fraser Valley and adjacent sea areas.

YALE FIRST NATION

Yale First Nation has been working to conclude final agreement negotiations since signing their agreement in principle in March 2006. Concentrated negotiations on a few key outstanding issues continue and the parties have targeted late 2007 or early 2008 for completion. Negotiation of side agreements and legal drafting work are well underway and an implementation working group is expected to start work on the implementation plan shortly. Yale has had some meetings over the past year with First Nation neighbors to discuss issues of overlapping territory.

Yale traditionally used and occupied the land around Yale, north of Hope. Their population numbers 145 members.

YEKOOCHE FIRST NATION

Negotiations on a final agreement are at an advanced stage and tripartite activity at the table has been high.

Yekooche has undertaken several Treaty-Related Measures in 2006/07 in support of the final agreement, including an assessment of its program/service delivery needs and capabilities and a review of local economic development opportunities and specific strategies to exploit them. Yekooche has also devoted considerable attention to addressing overlaps and has signaled this will remain a high priority as the table approaches final agreement. The Treaty Commission has offered to assist in these discussions.

In parallel, Canada and BC have initiated a series of consultations with overlapping First Nations. These consultations are ongoing.

Yekooche First Nation has a population of approximately 210 and traditionally occupied and used lands and waters northwest of Fort St. James.

Progress Reports

First Nations In Stage 4

CARRIER SEKANI TRIBAL COUNCIL

The CSTC table is currently inactive, and there are no indications that negotiations will resume in the immediate future. Internal consultations among CSTC communities regarding the treaty process are ongoing.

CSTC represents eight First Nations in the treaty process, including: Burns Lake Indian Band (Ts'il Kaz Koh First Nation), Nadleh Whut'en Band, Nak'azdli Indian Band, Saik'uz First Nation (formerly Stoney Creek), Stellat'en First Nation, Takla Lake First Nation, Tl'azt'en Nation and Wet'suwet'en First Nation. The combined population of CSTC is approximately 5,874 and the traditional territories of its members span an area of more than 90,000 square kilometres in north central BC.

DITIDAHT FIRST NATION/PACHEEDAHT BAND

The First Nations have focused much of their energy on cooperating with other First Nations as part of a unity protocol to engage with the Crown on key mandate issues in a more concerted effort. Negotiations have also continued at the Ditidaht/Pacheedaht treaty table. Additionally, Ditidaht has been engaged in discussions with Canada and BC in relation to overlaps with a neighbouring Maa-nulth First Nation.

Ditidaht and Pacheedaht have been negotiating at a common table since 1997. Ditidaht, located near Nitinaht Lake, has approximately 690 members, while Pacheedaht, with approximately 260 members, is based at Port Renfrew. The First Nations' traditional territories span the southwest corner of Vancouver Island.

ESKETEMC FIRST NATION

The parties have maintained a negotiating schedule of approximately two days every six weeks over the past year. A main table meeting, the first for Esketemc in some time, took place in October 2006 at Alkali Lake. Three of the process-oriented chapters including Approval of the Agreement in Principle, Dispute Resolution and Implementation, and Culture and Heritage were discussed. Esketemc currently has eight chapters under negotiation including parks, forestry, land, subsurface resources, water, migratory birds, wildlife, and local and regional government.

Esketemc entered treaty negotiations in 1993. Their community is located at Alkali Lake, 50 kilometres southwest of Williams Lake. Esketemc has approximately 750 members.

GITANYOW HEREDITARY CHIEFS

There have been no negotiations at this table since early 2006. This follows a decision among the parties to suspend negotiations temporarily due to conflicting visions in key areas of treaty making. The parties have expressed concern that existing mandates will not allow these differences to be overcome. Gitanyow continues to monitor developments elsewhere in the treaty process.

In September 2007, Gitanyow initiated court action arguing the Province has not abided by the terms of the 2004 Gitanyow Forest Agreement, given their decision to renew forest licences within Gitanyow traditional territory.

The Gitanyow population is approximately 720 and its traditional territory spans the middle reaches of the Nass River.

GITXSAN HEREDITARY CHIEFS

The Gitxsan entered the BC treaty process under their hereditary system of governance, which is a non-elected. This poses a significant challenge at the table given BC and Canada's desire to see some form of elected government under treaty. However, the Gitxsan have been open to exploring options and engaging in tripartite talks.

The chief negotiators met over a three-day period in July with a facilitator to determine if the they could break through the current impasse around governance. The parties will continue to meet without the assistance of a facilitator until January 2008, when the facilitator will rejoin them. At that time a decision will be made on further steps.

Gitxsan traditionally occupied and used the land and water around the upper reaches of the Skeena and Nass Rivers. The First Nation includes all or part of the populations of Gitanmaax Band, Gitwangak Band, Kispiox Band, Gitsegukla Indian Band and Glen Vowell Indian Band and comprises approximately 5,600 members.

HAISLA NATION

Tripartite negotiations resumed this year. Progress has been made by the parties on several agreement-in-principle chapters, including eligibility and enrolment, and governance and *Indian Act* transition. However, differences among the parties still exist in areas such as lands and ministerial authority in managing resources.

Haisla Nation has a population of approximately 1,592 and its traditional territory occupies an area on the central west coast of BC from Kitammat Arm, Devastation Channel, Kildadas Arm, the upper reaches of Douglas Channel, Gardner Channel, Verney Passage and the upper reaches of Princess Royal Channel.

HAMATLA TREATY SOCIETY (LAICH-KWIL-TACH COUNCIL OF CHIEFS)

Negotiations at the Hamatla table continue with discussions focusing primarily on issues of culture and heritage, fisheries and land. The parties meet for approximately two days every six weeks. There currently appears to be increasing interest in developing a tripartite workplan that clearly identifies milestones leading to the conclusion of the agreement in principle.

Early in 2006, the K'omoks First Nation left the Laich-Kwil-Tach Council of Chiefs to negotiate at a separate table but the First Nations continue to work together on non-treaty matters.

The Hamatla Treaty Society comprises three First Nations including Kwiakah, Wei Wai Kai, and Wei Wai Kum. Traditionally these First Nations occupied and used the lands and water around Campbell River, Courtenay and Comox, including parts of Knight, Call, Loughborough, Bear and Toba inlets. Today their collective population is approximately 1,500 members.

HEILTSUK NATION

There have been no treaty negotiations since 2001.

Heiltsuk's traditional territory spans the central coast. The First Nation, based on Campbell Island, has approximately 2,070 members.

HOMALCO INDIAN BAND (XWEMALHKWU)

Tripartite activity at this table has been focused on the review of several agreement-in-principle chapters. However, for a variety of reasons, only minimal progress has been made in reaching agreement on specific provisions. Tripartite activity ceased in June as Homalco's attention was diverted to internal issues, which remain unresolved.

Progress Reports

Homalco has a population of approximately 460 and the lands and waters traditionally occupied and used by the Homalco people extend from Phillips Arm, west of the mouth of Bute Inlet, to Raza Passage and Quantum River, and to Stuart Island and Bute Inlet and its watershed.

HUL'QUMI'NUM TREATY GROUP

Land, resource and governance chapters have been the main focus of negotiations. To that end, the parties have agreed to renew for another two years the Hill 60 Treaty Related Measure for the protection of land at Hw'teshutsun. Progress was also made in the areas of culture and heritage, land use planning and forestry on treaty settlement land. However, there are major differences among the parties on other issues including conflicting visions for shared decision making for non-treaty settlement land within Hul'qumi'num traditional territory, the constitutional status of treaty settlement lands and Canada's and BC's approaches to the issue of certainty.

Since June 2007 Hul'qumi'num have devoted greater attention to shared territory and overlap issues, federal and provincial mandates that they view as impeding progress in the negotiations. To strengthen internal unity and governance, in 2006 Hul'qumi'num established a leadership council. The council brings together band councils, elected chiefs and hereditary chiefs in regular meetings. The council's major priorities are drafting a constitution and achieving consensus on eligibility and enrolment.

The Hul'qumi'num Treaty Group represents six communities: Chemainus, Cowichan Tribes, Halalt, Lake Cowichan, Lyackson, and Penelakut (with which the Hwlitsum are also associated). It has a combined population of approximately 6,490 and traditionally occupied and used lands and waters encompassing part of southern Vancouver Island, the waters of the Straight of Juan de Fuca and the Straight of Georgia, and on the mainland along a narrow corridor extending from the coast to Yale in the east.

HUPACASATH FIRST NATION

The Framework Agreement was signed by the federal government in late July following a year's delay. During that time, the parties have continued negotiating toward an agreement in principle. This work continues.

Additionally, in March 2007 the First Nation negotiated a bilateral Reconciliation Protocol with British Columbia to support economic development, community relations and treaty negotiations. A further agreement with BC is aimed at implementing energy efficiency in members' homes and developing a run-of-river hydroelectric project. The combined value of both agreements is approximately $1 million.

Hupacasath has also been involved in discussions with the Crown in relation to overlaps with Maa-nulth First Nations.

Located in the Port Alberni area, the First Nation has some 250 members.

KASKA NATION

Negotiations were stalled throughout 2007 as a result of their suspension due to ongoing litigation by some of the Kaska communities. The parties have been attempting to negotiate an abeyance of litigation in order to resume negotiations.

The Kaska Nation communities continue to support the Northern Nations Alliance, a First Nations-only treaty alliance with eight other northern First Nations and organizations with traditional territory in northern BC, the Yukon and Northwest Territories. The Alliance is at work on a broad mandate that includes joint planning and management initiatives for economic development, resource management and land use planning and education as well as negotiating agreements with First Nations, public governments and industry.

Kaska Nation includes Kaska Dena Council, Liard First Nation and Ross River Dena Council — with a combined membership of approximately 3,000. The First Nation's traditional territory ranges from north central BC to the Yukon and Northwest Territories.

KATZIE INDIAN BAND

Negotiation of an agreement in principle at the Katzie table is continuing with the parties meeting two days each month. A tripartite progress assessment is planned for this fall following presentations by Katzie on their interests in fish, lands and governance. Over the past year the table has made good progress in discussions on forest resources, migratory birds, wildlife, and other chapters.

Katzie members number approximately 490 and traditionally used and occupied the land and water around Pitt Lake, Pitt River, Surrey, Langley, New Westminster and Vancouver.

KLAHOOSE INDIAN BAND

No negotiations have taken place during the past year, and there are no tripartite meetings planned for the coming year. Klahoose has made the decision to step back from negotiations for now and is instead concentrating on economic development activities.

Klahoose has approximately 290 members and a traditional territory on the mainland opposite Campbell River.

KTUNAXA/KINBASKET TREATY COUNCIL

Significant progress was made in a number of areas in 2006/07 including lands and intergovernmental relations. Ktunaxa/Kinbasket attributes this progress to its "citizen based" and driven approach to treaty making and a strong emphasis on collaborative problem-solving at the table. The latter has been particularly effective in negotiations on treaty lands. However, major challenges exist for Ktunaxa/Kinbasket. One is the uncertainty surrounding the participation of the Shuswap Indian Band, one of the five First Nation members. Ktunaxa/Kinbasket is committed to ensuring that its citizens voices are heard as it works towards an agreement in principle.

Ktunaxa/Kinbasket Treaty Council includes Lower Kootenay Indian Band, Columbia Lake First Nation, Shuswap Indian Band, St. Mary's Indian Band and Tobacco Plains Band. They have a combined population of approximately 1,190 and their traditional territories are located between the Rocky Mountain Trench and Kootenay Lake together with adjacent watersheds.

LAKE BABINE NATION

The Lake Babine table resumed tripartite negotiations in 2007. These negotiations follow a period of internal organization, during which Lake Babine developed a strategic plan and capacity and structures to conduct treaty negotiations. Of particular importance has been the ability to properly consult its sizeable and widespread population about key issues and developments at the treaty table. Fish, wildlife, forestry and governance have been the main considerations at the treaty table this year.

A major priority for Lake Babine in achieving a treaty is to obtain recognition of its unique fishing rights under the "Barricade Treaty" concluded in 1906–07. Lake Babine maintains under the treaty it received a commitment from Canada to permit its members to fish for salmon with nets and use or sell the fish they caught. Canada disputes that a treaty was made, or if it was, claims that the terms of the treaty were superseded by subsequent events including legislation.

Progress Reports

Lake Babine Nation consists of five communities — Woyenne, Old Fort, Tachet, Donald's Landing and Fort Babine — and the combined population is approximately 2,230. Its traditional territory spans an area from Burns Lake in the south to the Babine and Nilkitkaw rivers to the north including most of Lake Babine.

MUSQUEAM NATION

Agreement-in-principle negotiations have proceeded slowly since the parties signed their Framework Agreement in April 2005, as the parties have been in litigation, and subsequent negotiations, over the disposal and development of four important parcels of Crown land in Musqueam's traditional territory.

In its most recent action, the Musqueam obtained an injunction over the disposal of Sinclair Centre and Burrard 401 in downtown Vancouver. Musqueam has achieved declarations of a Crown duty to consult and possibly accommodate its interests in all four of these court actions, and is currently in negotiations to determine the scope and content of the duty to consult and accommodate with respect to these lands.

The First Nation has approximately 1,080 members, with traditional a territory spanning the Greater Vancouver area.

'NAMGIS NATION

'Namgis Nation has continued to make progress in negotiations over the past year. Canada officially advised the table in July that it had received a specific mandate to conclude an agreement in principle. It is expected BC will soon be in a position to do the same. The parties have identified early 2008 for completion of the agreement in principle and expect the substance of their deal to be on the table for discussion in late December.

The 'Namgis traditional territory is at the north end of Vancouver Island and extends from the Nimpkish watershed to the east and west. Well over half of their almost 1,600 members live at Alert Bay on Cormorant Island.

NAZKO FIRST NATION

The Nazko First Nation continues to make steady progress towards achieving an agreement in principle. The table is meeting regularly and the current focus is on fiscal relations, taxation and governance.

Nazko recently hosted a highly successful capacity building forum for the community as part of its pre-treaty planning and preparation strategy. In 2007, it completed a traditional use study and this has formed the basis for ongoing consultations with elders and other members of the community on land selection and land use and planning.

Nazko First Nation has a population of approximately 330 and its traditional territory extends from south-west of Quesnel to Prince George in the north.

NORTHERN REGIONAL NEGOTIATIONS

There has been no activity at the Northern Regional Negotiations table. Following an exercise in 1999 in which Canada and British Columbia outlined their preliminary positions with respect to land, cash and other provisions that would be included in a comprehensive treaty, negotiations stalled. Over the following few years meetings were infrequent and the First Nations focused on land use planning and protection.

The table has effectively been shut down since spring of 2003 when the BC government announced it would not return to tripartite negotiations until it had reassessed its mandate for transboundary negotiations. To date this task has not been completed.

Champagne and Aishihik First Nations, Carcross/ Tagish First Nation, Taku River Tlingit First Nation and Teslin Tlingit First Nation represent approximately 2,200 members who traditionally used and occupied the lands in southwest Yukon and northwest British Columbia. With the exception of Taku River Tlingit, whose traditional territory lies predominantly in British Columbia, these First Nations have negotiated land claims agreements with the Government of Yukon. All of the members of the Northern Regional Negotiation table have transboundary claims, that is, claims to land and resources that span the British Columbia and Yukon border.

NORTHERN SHUSWAP TREATY SOCIETY

Formerly the Cariboo Tribal Council, they are also known as the Shuswap people of the North, Northern Secwepemc te Qelmucw NStQ.

NSTS has made significant progress over the past year. With agreement-in-principle negotiations scheduled for substantial completion in early 2008, the parties are meeting more frequently and are making use of side tables and working groups to deal with the more technical aspects of their negotiations. Communication with their members continues to be a priority for the NSTS: their bi-monthly newspaper Lexey'em, along with monthly newsletters and community meetings, help keep members informed of the progress being made at the treaty table.

NSTS represents more than 2,000 people of NStQ ancestry from four member communities in and around the Williams Lake area: Williams Lake Band (T'exelc), Soda Creek Band (Xat'sull/ Cmetem), Canoe/ Dog Creek Band (Stswecem'c/ Xgat'tem) and Canim Lake Band (Tsq'escen').

NUU-CHAH-NULTH TRIBAL COUNCIL

There have been no tripartite treaty talks at the Nuu-chah-nulth treaty table since mid-2005. However, Nuu-chah-nulth First Nations have been cooperating with other First Nations as part of a unity protocol in an effort to engage with the Crown on key mandate issues on a more concerted basis.

Individual Nuu-chah-nulth First Nations have also been engaged in discussions with their Maa-nulth neighbours and/or British Columbia and Canada in relation to overlaps with various Maa-nulth First Nations. In some instances, issues of concern proved relatively minor or had, on closer examination, already been addressed. In one instance, however, a Nuu-chah-nulth First Nation sought a court injunction to restrain a neighbouring Maa-nulth First Nation from ratifying its treaty. The court declined to grant the injunction.

The Nuu-chah-nulth treaty table comprises Ahousaht, Ehattesaht, Hesquiaht, Mowachaht/Muchalaht, Nuchatlaht, Tla-o-qui-aht and Tseshaht First Nations, with a combined population of approximately 5,500. The traditional territories of these First Nations span the west coast of Vancouver Island from Barkley Sound to Kyuquot Sound.

OWEEKENO (WUIKINUXV) NATION

Wuikinuxv is nearing conclusion of their agreement-in-principle negotiations. With most chapters complete or nearing completion, a few outstanding issues as well as legal drafting work remain. A focus of the parties this fall will be financial issues: fiscal relations, capital transfer, taxation and resource revenue sharing. A tripartite communications and consultation plan has recently been agreed to by the parties signaling that third party and public consultation activities will be happening with greater frequency.

Wuikinuxv has approximately 280 members with their main community at the head of River's Inlet.

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STO:LO NATION

Stol:Lo Nation has amended the Sto:Lo Nation Statement of Intent to accommodate an internal restructuring, reflecting the departure of eight communities from the Sto:Lo Nation: Chawathil, Cheam, Kwantlen, Kwawkwawapilt, Shxw'ow'hamel, Scowlitz, Seabird Island, Soowahlie and Sumas. Following the restructuring they have resumed active Stage 4 negotiations.

Sto:Lo, a First Nation with approximately 1,700 members, traditionally occupied and used the land around the Fraser Valley, much of the Lower Mainland and the Harrison Lake watershed. The First Nation comprises seven communities: Aitchelitz, Lakahahmen, Popkum, Skawahlook, Skowkale, Tseachten and Yakweakwioose.

TE'MEXW TREATY ASSOCIATION

The parties at the Te'Mexw table have been negotiating intensively to reach an agreement in principle and have made significant progress in reaching that objective. Unfortunately, the chief negotiator for Canada has left and there is concern that the negotiations may slow down or stall. Several major issues remain to be resolved before the table can complete a comprehensive agreement in principle.

The Te'Mexw Treaty Association comprises five communities — Beecher Bay, Malahat, Nanoose, Songhees and Sooke — with a combined membership of approximately 1,350. These First Nations traditionally occupied and used the land and water around the southern tip of Vancouver Island.

TSAY KEH DENE BAND

Tripartite activity continues at this table with most time and attention being devoted to lands and resources. However, ongoing discussion of these key areas has not resulted in significant progress due to differences in the parties' positions. Land quantum for purposes of treaty settlement land and shared decision-making authority on non-treaty settlement land within Tsay Keh Dene traditional territory are two areas where gaps remain.

Besides treaty negotiations, the Tsay Keh Dene has been active in defending its interests in its traditional territory by other means. Tsay Keh Dene was a participant in the Kemess North Mine Joint Review Panel. The panel recommended in 2007 that a planned expansion of the Kemess Mine should not proceed because of its "adverse environmental, social and cultural effects." Tsay Keh Dene also conducted negotiations with BC Hydro on a final agreement in connection with the flooding of parts of its traditional territory in the Peace River Valley region caused by the construction of the Williston Lake Reservoir in the 1960s. These negotiations arise from an agreement in principle reached by the Tsay Keh Dene with BC Hydro in 2006.

Tsay Keh Dene has a population of approximately 390 and its traditional territory encompasses an area bounded by Mount Trace in the north, by South Pass Peak in the west, by the Nation River in the south and by Mount Laurier in the east.

TSIMSHIAN FIRST NATIONS

Tsimshian First Nations re-engaged in substantive agreement-in-principle negotiations in spring 2005 and have been working since then on a consolidated draft agreement in principle.

The First Nation's traditional territory spans the northwest coast, including Prince Rupert and Terrace. The First Nation comprises five communities: Gitga'at, Kitasoo/Xaixais, Kitselas, Kitsumkalum and Metlakatla First Nations.

TSLEIL-WAUTUTH NATION

The Tsleil-Waututh Nation is currently negotiating a substantial number of chapters in their agreement in principle, the most recent additions being culture and heritage and taxation. The table has increased its meeting frequency over the past few months and the parties have identified a detailed list of outstanding issues that will be discussed in negotiations over the coming months.

In addition to their work at the treaty table, Tsleil-Waututh is engaged in a number of other activities to better their community and the future for their members. As one of the four host First Nations for the 2010 Olympics in Vancouver, Tsleil-Waututh is an active partner in the planning and hosting of the games and will have an opportunity to showcase its art, traditions, history and culture to the world. Tsleil-Waututh also continues to partner with business in developing their reserve lands and has established good working relations with local and regional governments on the north shore of Vancouver.

Tsleil-Waututh has approximately 440 members and their people have traditionally lived on the land and waters around North Vancouver and the Lower Mainland, since time out of mind.

WESTBANK FIRST NATION

The primary focus of this table continues to be land. The parties made good progress by developing a creative negotiating approach through the use of non-binding technical working groups. These working groups provided several "scenarios" with respect to land and fiscal arrangements that could form the basis of an agreement in principle.

Located in the Kelowna area, Westbank has approximately 640 members.

WET'SUWET'EN NATION

There have been no negotiations at this table since November 2006. The hereditary chiefs and their constituents are currently exploring whether to stay in the treaty process or to step back from negotiations. The Wet'suwet'en team is reviewing other final agreements and the current status of negotiations with BC and Canada, and were expected to make a final decision this fall.

Wet'suwet'en traditionally occupied and used the Bulkley River drainage area in northwest BC. The First Nation includes members of Hagwilget village and Moricetown and has a total population of approximately 2,700.

WINALAGALIS TREATY GROUP

The Winalagalis Treaty Group continued to make progress in some areas of negotiations in 2007, although there was significant frustration in a few key areas such as fisheries. The four Winalagalis First Nations are hopeful that starting this fall, fisheries negotiations will resume and other pressing issues including land, co-management, fiscal relations and taxation will be the subjects of earnest negotiation.

The Winalagalis Treaty Group includes the Da'naxda'xw Awaetlatla Nation, the Gwa'sala-Nakwaxda'xw Nation, the Quatsino First Nation and the Tlatlaskiwala Nation. They have been negotiating four separate treaties at a common table since 1997. The First Nations traditionally occupied the land and water around the north end of Vancouver Island and have approximately 2,200 members.

Progress Reports

First Nations In Stage 3

CHESLATTA CARRIER NATION

The Cheslatta Carrier treaty table remains inactive. The parties have not engaged in tripartite negotiations since 1997.

A First Nation of approximately 300 members, Cheslatta traditionally occupied and used the areas surrounding Ootsa and Eutsuk lakes in central British Columbia.

K'OMOKS FIRST NATION

The K'omoks First Nation, formerly a member of the Hamatla Treaty Society, decided late last year to move ahead in negotiations and filed with the Treaty Commission a separate Statement of Intent. Since their SOI was accepted in February, K'omoks has made significant progress in negotiations and plans to complete their agreement in principle by December 2008.

A significant number of chapters for the agreement in principle are substantially complete and the First Nation is awaiting a response from BC and Canada on a preliminary land selection tabled recently. Meetings are scheduled for two days each month and include an evening information session and dinner where the three parties engage with community members. A council of families also meets monthly to provide direction to the treaty team on issues such as eligibility and enrolment and constitutional development and to communicate decisions back to the community.

K'omoks represents approximately 300 members, and occupies a reserve at Comox. Their traditional territory covers the central eastern part of Vancouver Island and extends to the Johnstone Strait.

SQUAMISH NATION

The Squamish continue to pursue opportunities outside of the treaty process, including economic development.

Squamish's traditional territory ranges from the Lower Mainland to Howe Sound and the Squamish valley watershed. The First Nation has approximately 3,500 members.

TLOWITSIS FIRST NATION

Agreement-in-principle negotiations continue despite a delay by Canada in signing the framework agreement reached in 2006.

Even without a signed framework agreement, activity at the Tlowitsis table has been regular and progress has been made in reviewing a number of agreement-in-principle chapters, including land, ratification, eligibility and enrolment, migratory birds and others. Tlowitsis has indicated its intention to significantly augment its internal capacity in 2008 in order to achieve its target of an agreement in principle by 2009.

Tlowitis First Nation has a population of 373 and its traditional territory spans part of northeast Vancouver Island and an area on the mainland northwest of Campbell River.

First Nations In Stage 2

ACHO DENE KOE FIRST NATION

Acho Dene Koe entered the treaty process in November 2000. The Treaty Commission accepted their readiness documents and continues to wait for a response from the BC government, which has not put forward its position on trans-boundary negotiations. The First Nation has approximately 550 members and is located in Fort Liard, Northwest Territories, which is 25 kilometres north of the BC — Northwest Territories border. Acho Den Koe has traditional territory on both sides of the border.

ALLIED TRIBES OF LAX KW'ALAAMS

The Treaty Commission accepted the Statement of Intent of the Allied Tribes of Lax Kw'alaams on June 2005. In July 2005 the parties completed their 45-Day Meeting. The First Nation has met Stage 2 readiness requirements and has been declared ready to negotiate.

The Allied Tribes of Lax Kw'alaams were formally part of the Tsimshian Nation; and separated in the spring of 2004. Located northwest of Prince Rupert, the Allied Tribes have a population of approximately 3,000.

COUNCIL OF THE HAIDA NATION

In response to the Supreme Court rulings in *Haida Nation v. B.C. and Weyerhaeuser* the Council of the Haida Nation and British Columbia have been negotiating land protection, revenue sharing and the Haida role in land use planning. The parties have completed their Stage 2 readiness requirements and are exploring whether or not there is basis for engaging in substantive tripartite treaty negotiations.

As well, the Council of the Haida Nation continues to pursue its aboriginal title case over the whole of Haida Gwaii (Queen Charlotte Islands).

Located on Haida Gwaii, the council has 3,575 members.

MCLEOD LAKE INDIAN BAND

There have been no negotiations during the past year. The First Nation entered the BC treaty process in February 2004 with a view to building on the McLeod Lake Treaty 8 Adhesion and Settlement Agreement that was finalized in 2000.

The McLeod Lake Indian Band has approximately 420 members and its main community lies 150 km north of Prince George.

About Us

The Treaty Commission is the independent body responsible for facilitating treaty negotiations among the governments of Canada and BC and First Nations in BC. The Treaty Commission does not negotiate treaties — that is done by the three parties at each negotiation table.

The Treaty Commission and the treaty process were established in 1992 by agreement of Canada, BC and the First Nations Summit. They are guided by the agreement and the 1991 Report of the BC Claims Task Force, which is the blueprint for the made-in-BC treaty process. The Treaty Commission was mandated to facilitate negotiations towards fair and durable treaties under the six-stage treaty process. The process is voluntary and open to all First Nations in BC.

As the independent keeper of the BC treaty process, the Treaty Commission caries out three complementary roles: facilitation, funding and public information and education.

The Treaty Commission's operating budget for 2006–07 was $2.52 million and its total funding for operations from 1993 to March 31, 2007 is approximately $29 million. In addition to four part-time commissioners and the full-time chief commissioner, the Treaty Commission employs 13 staff. Funding for administering the treaty process and for settlement costs is borne jointly by the federal and provincial governments. The Government of Canada contributes 60 percent of the Treaty Commission's budget and the BC government contributes 40 percent.

Effective April 1, 2006 the federal and provincial governments entered into a three-year agreement to fund the operating costs of the Treaty Commission at $2.52 million per year.

Report on Facilitation

The Treaty Commission's primary role is to oversee the negotiation process and to ensure the parties are being effective and making progress in the negotiations.

In carrying out this role, the Treaty Commission:

- Accepts First Nations into the treaty process and assesses when the parties are ready to start negotiations;
- Monitors compliance with the fundamental principles of treaty making as set out in the Treaty Commission's Mission Statement;
- Monitors and reports on the progress of negotiations and encourages timely negotiations by helping the parties to set meeting schedules and monitor deadlines;
- Chairs key meetings at tables and offers advice to the parties, where requested;
- Assists the parties in developing solutions and in resolving disputes;
- Identifies, engages with the Principals on, and reports publicly on opportunities and key overarching obstacles to progress (e.g., mandates, resources, capacity, etc.);
- Supports pilot projects with the potential to promote progress in negotiations (e.g., community planning, overlap resolution); and
- Develops and applies policies and procedures for the six-stage treaty process.

The Treaty Commission continues to devote the greater part of its time and resources to facilitation. Over the past year, the chief commissioner, commissioners, and staff have been involved in a variety of facilitation initiatives, often on a sustained basis. This demand has arisen from a number of circumstances:

- Intensified negotiations at Stage 5 and some Stage 4 tables;
- Stalled negotiations at certain other tables;
- Intensified inter-First Nation dialogue on overlapping and shared territories, particularly where negotiations are approaching final agreement;
- Consultations between the Crown and First Nations affected by overlaps; and
- Relationship building among the parties to the negotiations and other key stakeholders (e.g., local and regional government).

We anticipate that these circumstances will persist into the coming year. It is also expected that the Treaty Commission's attention and energies will be increasingly focused on:

- Treaty implementation;
- Negotiations on matters best resolved on a sectoral or regional basis; and
- Renewed high-level talks among the Principals.

Report On Funding

The Treaty Commission allocates negotiation support funding so that First Nations can prepare for and carry out negotiations on a more even footing with the governments of Canada and BC. For every $100 of negotiation support funding allocated, $80 is a loan from Canada, $12 is a contribution from Canada and $8 is a contribution from BC.

Since April 2004, First Nations have been able to accept just the non-repayable contribution or take any portion of their loan allocation. In 2007, several First Nations chose to accept fewer loan dollars than would have been required before this change.

Unless treaties come into effect, or the loans are in default, loans made to First Nations to allow them to participate in treaty negotiations come due 12 years from the date of the first loan advance. The first treaty loans would have become due in August 2006. When the 12-year deadline was set there was an expectation treaties would be completed within that time frame. That has not been the case.

The Treaty Commission may, if requested by the First Nation, recommend a five-year extension to the 12-year due date. The Treaty Commission has recommended the maximum five-year extension for every First Nation in the treaty process that has requested an extension.

Since opening its doors in May 1993, the Treaty Commission has allocated $398 million in negotiation support funding to more than 50 First Nations, representing approximately two-thirds of the First Nations in the province — $318 million in loans and $80 million in non-repayable contributions.

About Us

Report On Public Information And Education

As the independent voice of treaty making in British Columbia, the Treaty Commission is uniquely positioned to provide public information. The governments of Canada and BC also share responsibility for public information. As well, the three parties in each set of negotiations — Canada, BC and First Nations — provide specific information on their negotiations.

ONGOING COMMUNICATIONS COMMITMENTS

The governments of Canada and BC have funded the Treaty Commission to provide public information and education on treaty making in BC since 1997. To reach audiences throughout BC, the Treaty Commission provides a variety of communications tools, including a website, annual report, newsletters, special publications, and videos.

Commissioners and advisors regularly deliver presentations to special events, community forums, business organizations, schools and post-secondary institutions. In addition to providing up-to-date information on the current state of the treaty process, the Treaty Commission has an important role to play in supporting publication information efforts by individual treaty tables. To assist with these regular efforts, commissioners and treaty advisors regularly attend information forums with First Nation constituents and with the broader non-aboriginal community.

SPECIAL FUNDING

As a result of heightened interest in treaty making this year, the BC government awarded the Treaty Commission a one-time special grant of $250,000 to supplement its public information effort.

ADVOCACY CAMPAIGN

The Treaty Commission launched an advocacy campaign intended to direct the interested public to Treaty Commission information in the lead up to the first treaty ratification vote under the BC treaty process. The campaign in March 2007 was in keeping with the Treaty Commission's commitment to provide British Columbians with the information they need to make an informed decision about treaty making in BC. Ads ran in daily and community newspapers and on radio throughout the province during a two-week period. According to a follow-up telephone survey, nine percent of adult British Columbians saw or heard the ads. Of those, 21 percent reported having a more positive view of treaty making after viewing or hearing the ads — approximately 50,000 people. Web site visits were 40% higher during the campaign period when compared with the previous year.

The ads are now posted to the Treaty Commission's web site.

NISGA'A DANCING IN BOTH WORLDS

The Nisga'a Nation journey to a treaty and beyond was the subject of a video by Toronto filmmakers John Bassett and Rosalind Farber. The program includes interviews with Frank Calder, Rod Robinson, both now deceased, as well as other leaders and individuals throughout the Nisga'a communities. The film documents the history of the Nisga'a and their journey that culminated with the first modern treaty in British Columbia. The Treaty Commission, Indian and Northern Affairs Canada and the BC Ministry of Aboriginal Relations and Reconciliation provided financial support for the project. The video premiered at a special event attended by First Nations leaders and luminaries in June 2007. The Treaty Commission continues to promote the video as an educational tool, and hopes to see the video as a curriculum resource in 2008.

INTERGOVERNMENTAL RELATIONS

In 2004, the Treaty Commission initiated a pilot project on intergovernmental community planning among the Sliammon First Nation, the City of Powell River and the Powell River Regional District. The four-phase project consisted of the development of a Sliammon community plan, a comparison of the Sliammon and local/regional plans, amendment of plans as necessary, and implementation and monitoring. Project findings were submitted in the spring of 2007 as a 'best practices' guidebook for use by other First Nations and their neighbouring governments. The Real Estate Foundation of BC provided a $25,000 grant for the project and the Treaty Commission contributed $30,000 in funding. In addition, the Treaty Commission provided the Sliammon First Nation with administrative and in-kind support for the project. The Treaty Commission is currently producing a booklet *Developing Intergovernmental Relationships* based on the experience of Sliammon First Nation and Powell River.

LHEIDLI T'ENNEH FIRST NATION RATIFICATION VOTE ANALYSIS

The Treaty Commission undertook research to better understand the outcome of the Lheidli T'enneh First Nation treaty vote. Lheidli T'enneh invited the Treaty Commission to conduct a member survey and leadership interviews on behalf of the First Nation, with the expectation of gathering information that would assist members in assessing whether a second vote would be warranted. The Treaty Commission funded the survey undertaken by Vancouver research firm Mustel Group and conducted its own interviews with Lheidli T'enneh elders and other community leaders. Both the survey results and report were released to the public in September 2007, and are now posted to the Treaty Commission's web site. Also available is *Ratification Best Practices*.

COMMUNITY INFORMATION SESSIONS

The Treaty Commission continues to provide community information sessions, designed to meet the specific needs of people in First Nations communities. These sessions deal with First Nations history, governance and treaty making in BC. It will be First Nations members that ratify agreements signed through the BC treaty process and it is essential they have good information.

The session covers the contributions of aboriginal people with highlights from 15,000 years of inventions and innovations; examines attempts at displacement and assimilation; the way out through treaty negotiations; and the process for involving First Nations and their members. Over the past year, the session has been delivered to about 25 First Nation communities.

ROYAL BC MUSEUM PROJECT

First Peoples of British Columbia, a six-minute, large-format multimedia presentation celebrating BC First Nations launched in December 2006. It now runs 10 times a day on the two-story, three dimensional map in the Royal BC Museum lobby. The presentation is the product of a partnership between the Treaty Commission and the Royal BC Museum. Produced by David Douglas and Diane Roberts of Salt Spring Island's West Eagle Films, the project was supported financially by the Ministry of Aboriginal Relations and Reconciliation and Indian and Northern Affairs Canada.

Information

WEBSITE

Responding to the evolving needs of its users, the Treaty Commission re-launched www.bctreaty.net in March 2007. The site, constantly updated with new information now includes: an integrated navigation structure, new video and Power Point presentations, more information on the issues in negotiations and an expanded negotiations section to keep visitors up-to-date on the treaty process. The new site remains the one-stop shop for treaty information, but places that information where users need and want it.

PUBLIC INFORMATION MATERIALS

The Treaty Commission continues to update and produce a variety of information materials available free to the public. This year, the Treaty Commission updated and reprinted its two most popular publications *What's the Deal with Treaties?* and *Why Treaties? A Legal Perspective*. These booklets present the historical and legal reasons for treaty making in British Columbia in a convenient pamphlet-sized publication. In addition, the Treaty Commission developed and produced *Rights and Responsibilities: Discussion Guide about Treaty Negotiations for First Nation Members*. The guide is a how-to manual for individual First Nation people who want to participate in the treaty negotiation process. It sets out the actions First Nation peoples can take in each stage of treaty negotiations. Commonly asked questions are also addressed. Copies of all three publications are available from the Treaty Commission, or online in PDF format at www.bctreaty.net.

Commissioners

Jack Weisgerber was appointed to a third, two-year term in February 2006 by the Government of British Columbia. Weisgerber represented Peace River South in the BC Legislature for 15 years from 1986 to 2001. He became BC's first Minister of Aboriginal Affairs in 1988, and in 1991 he was appointed Minister of Energy, Mines and Petroleum Resources. His leadership was key to the formation of the BC Claims Task Force.

Jody Wilson was re-elected commissioner in March 2007 to a third, two-year term by the First Nations Summit. Raised in the Comox Valley, Wilson is a member of the We Wai Kai First Nation. Wilson had been a treaty process advisor at the BC Treaty Commission prior to her election. Previously, she served as a provincial Crown prosecutor for two years. She holds a Bachelor of Laws from the University of British Columbia (1999) and a Bachelor of Arts in Political Science and History from the University of Victoria (1996). Wilson has been an active member of the BC Bar since 2000.

Robert Phillips is serving his first term as commissioner following his election at the First Nations Summit in March 2007. He is a member of the Northern Secwepemc te Qelmukw (Shuswap) of the Canim Lake First Nation. Phillips holds a Bachelor of Arts degree from the University College of the Fraser Valley. He served as chief negotiator and, prior to that, as self-government director at the Northern Shuswap Tribal Council since 1998. Phillips has a background in aboriginal justice and economic development.

Departures

Chief Commissioner Steven Point

Judge Steven Point was appointed the 28th Lieutenant-Governor of British Columbia in September 2007, and assumed his new duties October 1. Judge Point served as chief commissioner for 2-1/2 years. He brought to the position over 30 years experience in the field called 'native rights', starting in 1975 as chief of the Skowkale First Nation. Fifteen years as chief and another five as tribal chairman honed Point's strong views on native rights: what they are and why we need them. From his own experience, Judge Point understood well that the treaty process represented a long-awaited opportunity for First Nations to find their rightful place in the Canadian legal and social system. Throughout his tenure, Judge Point sought to demystify the treaty process, to focus on the key priorities for First Nations, and to shed light on the solutions that were already emerging from negotiation tables. Underscoring the significance of Point's appointment, one of his first responsibilities as Lieutenant-Governor was to sign into law the Tsawwassen First Nation settlement legislation.

Commissioner Wilf Adam

Wilf Adam, the Treaty Commission's longest serving commissioner, retired in March 2007 after 12 years as the First Nations Summit appointee. For most of his adult life, Adam has been committed to improving the lives of First Nations. At the age of 19, Adam became an instructor in the Carrier language for School District 55. He taught Carrier, his first language, to grade eight and nine students and Indian Studies to grade 11 and 12 students. He then became involved in administration, law and business on behalf of his community. Adam was actively involved in Lake Babine First Nation's administration for 16 years, the last eight of those as chief. He is a co-founder of the Burns Lake Native Law Centre, and a former chair of the Burns Lake Native Development Corporation. Adam first stood as the First Nations Summit appointee to the Treaty Commission in 1995 and was re-elected five times.

Commissioner Michael Harcourt

Former premier Mike Harcourt left the Treaty Commission in May 2007 after two consecutive terms as the federal appointee. During his four years as commissioner, Harcourt was a tireless advocate for treaty making as a tool to unlock the economic opportunities in First Nations communities. It was his view that treaties would create billions of dollars of economic activity in the province. Harcourt was also a leader in bringing comprehensive community planning for First Nation communities into the treaty lexicon. He promoted the development of a comprehensive community planning pilot project adopted by Indian and Northern Affairs Canada and the Communities in Transition Partnership Initiative. Indeed, Harcourt's commitment to the treaty process is long-standing; as premier in 1992 Harcourt signed the agreement establishing the Treaty Commission.

WWW.BCTREATY.NET

For details on the six-stage treaty process and recommended resources, see our website.

BC TREATY COMMISSION

203-1155 West Pender Street Vancouver BC V6E 2P4
Tel 1 800 665 8330 604 482 9200
Fax 604 482 9222 Email info@bctreaty.net

Merging the past and present, the Treaty Commission symbol represents the three Principals in modern-day treaty making — the governments of Canada and British Columbia and First Nations. Pointing in an upward and forward direction, the symbol implies a "coming together" pivotal to successful negotiations and treaty making.